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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,313	07/07/2003	Harri Pekonen	04770.00116	8267

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BANNER & WITCOFF  
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WASHINGTON, DC 20001

EXAMINER

HUYNH, CHUCK

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/614,313

Applicant(s)

PEKONEN, HARRI

Examiner

Chuck Huynh

Art Unit

2683

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED 17 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-24.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 3. NOTE: The newly added limitations (as underlined in claim 20-23) to the proposed, amended claims have never been claimed before. They also change the scope of the rejected claims. Therefore, the amended claims raise new issues, and the amendment will not be entered..

Continuation of 11. does NOT place the application in condition for allowance because:  
Claims 1-24 are still not in condition for allowance,

Applicant argued that the combination of Wager in view of Campanella is improper because Wager teaches away from using FEC codes (Column 1, lines 39-41), and therefore, in combining Campanella with Wager would destroy the primary reference that teaches away from doing that which the combination of the two references would necessitate.

Examiner would like to disagree and to elaborate. Wager discloses the need for "... an improved error correction scheme that does not require the utilization of additional overhead within the radio air interface or a scheme, which may be used to improve existing FEC..." This implies that Wager uses a scheme in conjunction with existing FEC, which is used to improve the existing FEC techniques. Therefore, the combination of Wager in view of Campanella is proper to improve the existing techniques of FEC.

Furthermore, Applicant argues Wager does not disclose the limitations of claim 1 of the present application, wherein burst of data packets are broadcast from the base transceiver stations to a wireless terminal and whereby the system includes one receiver and several transmitter.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the limitations burst of data packets are broadcast from the base transceiver stations to a wireless terminal and whereby the system includes one receiver and several transmitter) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 1 does not specifically specify any wireless terminal or a system that includes one receiver and several transmitters. Until the claim is amended to clarify such features are claimed, Examiner will not read those features into the claim.

Applicant argued that Wager does not disclose the limitations in the present application, which relates to replacement of complete packets rather than bit-by-bit correction of packets and does not require two copies of data to correct errors.

However, since the claimed limitation does not specifically state how the correction is done, the argued limitation is not read into the claim. Therefore, until claim 1 is amended to clearly specify the novel features of the application to overcome the prior arts, claim 1 and its dependent claims, 2-17, are still not in condition for allowance.


Regarding claim 18, Applicant argues that Schuster discloses communication of substantially real time media signal over the Internet using an error correction scheme, but not directed to a wireless terminal within a wireless system, and using FEC codes to correct errors resulting from handover. Furthermore, Applicant disagrees with the combination of Schuster and Willenegger because they are not analogous arts.

Examiner would like to point out that Willenegger does disclose a wireless system with wireless terminals (Fig 1, 2). And furthermore Willenegger does disclose the fact of hand-over ([0024], [0025], [0225], [0253]). Willenegger also talks about error correction methods [0029], but does not disclose using FEC. However, Schuster is relied on to disclose usage of FEC codes (Col 3, line 47; Col 4, line 65). Schuster and Willenegger are analogous arts disclosing error correction method; therefore, due to the broadness of the claim, together Willenegger in view of Schuster does disclose all the claimed limitations. Dependent claims 18 and 19 are still not in condition for allowance.

Independent claim 20 has been amended, and requires a new search of new issues. Therefore, claims 20-23 are not yet in condition for allowance.

Regarding claim 24, Applicant disagrees that Strawczynski discloses feature "d) determining packet numbers that are associated with received packets of the second burst, wherein the packet numbers correspond to a transmitted packet ordering. In fact, the cited material merely discloses construction of new information frames.

Examiner disagrees, and would like to point to the fact the new information frames are of a specific order corresponding to frames of valid information (Col 5, lines 50-55; Col 6, lines 47- Col 7, lines 10). Due to the broadness of the claimed limitation, not specific on how the determination of the packet numbering works, Strawczynski does disclose forwarding valid frames sequentially. Therefore, claim 24 is not in condition for allowance..

  
**ELISEO RAMOS-FELICIANO**  
**PATENT EXAMINER**